



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Josh Eaton
Core Mark New England
47 Market St.
Gardiner, ME 04345

Re: Information Request Pursuant to the Clean Air Act

Dear Josh Eaton:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Core Mark New England’s facility at 47 Market St. in Gardiner, ME (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration (“IIAR”) has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management (“ARM”) Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory (“Tier II”) reports¹ submitted by Core Mark New England, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Core Mark New England’s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments “process hazard reviews.” A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the “Information Request” and “Declaration” portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

¹ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

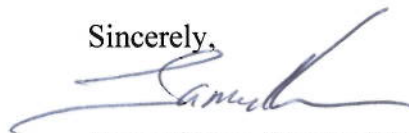
FOLLOW-UP TO INFORMATION REQUEST

EPA will review Core Mark New England's response to the Information Request. If the response indicates that Core Mark New England has performed a Process Hazard Review of the Refrigeration System, Core Mark New England's involvement in this initiative will conclude.

If Core Mark New England's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Core Mark New England has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Core Mark New England an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Core Mark New England to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Core Mark New England to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Core Mark New England
47 Market St.
Gardiner, ME 04345

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112reinforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



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REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Mike McGloin, Manager
Cumberland Farms
165 Flanders Road
Westborough, MA 01581

Re: Information Request Pursuant to the Clean Air Act

Dear Mike McGloin:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Cumberland Farms’ facility at 165 Flanders Road in Westborough, MA (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
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Information obtained by EPA, including chemical inventory ("Tier II") reports² submitted by Cumberland Farms, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Cumberland Farms' compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

² Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

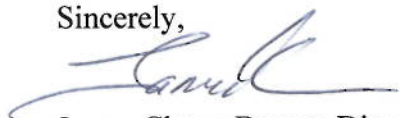
FOLLOW-UP TO INFORMATION REQUEST

EPA will review Cumberland Farms' response to the Information Request. If the response indicates that Cumberland Farms has performed a Process Hazard Review of the Refrigeration System, Cumberland Farms' involvement in this initiative will conclude.

If Cumberland Farms' response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Cumberland Farms has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Cumberland Farms an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Cumberland Farms to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Cumberland Farms to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Cumberland Farms
165 Flanders Road
Westborough, MA 01581

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ **No** ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? **Yes** ___ **No** ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? **Yes** ___ **No** ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalerf.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

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Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

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The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

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Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

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Healthcare

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EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Nancy Burns, President and CEO
Dole and Bailey, Inc.
16 Conn St
Woburn, MA 01801

Re: Information Request Pursuant to the Clean Air Act

Dear Nancy Burns:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Dole and Bailey, Inc.’s facility at 16 Conn St in Woburn, MA (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;

2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.,* The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports³ submitted by Dole and Bailey, Inc., indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Dole and Bailey, Inc.'s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain

³ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review Dole and Bailey, Inc.'s response to the Information Request. If the response indicates that Dole and Bailey, Inc. has performed a Process Hazard Review of the Refrigeration System, Dole and Bailey, Inc.'s involvement in this initiative will conclude.

If Dole and Bailey, Inc.'s response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Dole and Bailey, Inc. has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Dole and Bailey, Inc. an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Dole and Bailey, Inc. to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Dole and Bailey, Inc. to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Dole and Bailey, Inc.
16 Conn St
Woburn, MA 01801

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ **No** ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? **Yes** ___ **No** ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? **Yes** ___ **No** ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

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continued >>

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Construction

www.cicacenter.org

Education

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Food Processing

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EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

David F. Rossi, Vice President
Eastern Ice Company, Inc.
281 Commerce Dr
Fall River, MA 02720

Re: Information Request Pursuant to the Clean Air Act

Dear David F. Rossi:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Eastern Ice Company, Inc.’s facility at 281 Commerce Dr in Fall River, MA (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports⁴ submitted by Eastern Ice Company, Inc., indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Eastern Ice Company, Inc.'s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

⁴ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review Eastern Ice Company, Inc.'s response to the Information Request. If the response indicates that Eastern Ice Company, Inc. has performed a Process Hazard Review of the Refrigeration System, Eastern Ice Company, Inc.'s involvement in this initiative will conclude.

If Eastern Ice Company, Inc.'s response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Eastern Ice Company, Inc. has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Eastern Ice Company, Inc. an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Eastern Ice Company, Inc. to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Eastern Ice Company, Inc. to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Eastern Ice Company, Inc.
281 Commerce Dr
Fall River, MA 02720

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company
and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pncac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

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Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

William C. Hummel, President
Hummel Bros., Inc.
180 Sargent Dr
New Haven, CT 06511

Re: Information Request Pursuant to the Clean Air Act

Dear William C. Hummel:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at Hummel Bros., Inc.’s facility at 180 Sargent Dr in New Haven, CT (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration (“IIAR”) has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management (“ARM”) Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory (“Tier II”) reports⁵ submitted by Hummel Bros., Inc., indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on Hummel Bros., Inc.’s compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments “process hazard reviews.” A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the “Information Request” and “Declaration” portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

⁵ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review Hummel Bros., Inc.'s response to the Information Request. If the response indicates that Hummel Bros., Inc. has performed a Process Hazard Review of the Refrigeration System, Hummel Bros., Inc.'s involvement in this initiative will conclude.

If Hummel Bros., Inc.'s response reveals a violation of the first duty of the General Duty Clause (*i.e.*, Hummel Bros., Inc. has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending Hummel Bros., Inc. an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require Hummel Bros., Inc. to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require Hummel Bros., Inc. to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

Hummel Bros., Inc.
180 Sargent Dr
New Haven, CT 06511

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112enforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This Initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

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Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

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The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

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www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

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Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Steve Freese, Owner
It'll Be Pizza
5 Lincon Ave
Scarborough, ME 04074

Re: Information Request Pursuant to the Clean Air Act

Dear Steve Freese:

In January of 2020, the U.S. Environmental Protection Agency ("EPA") provided you notice of its plans to begin an enforcement initiative to increase companies' compliance with the "General Duty Clause" of Section 112(r)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(1), in certain states. See "Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems" (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an "Information Request" that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at It'll Be Pizza's facility at 5 Lincon Ave in Scarborough, ME ("Facility") in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.,* The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports⁶ submitted by It'll Be Pizza, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on It'll Be Pizza's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the

⁶ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review It'll Be Pizza's response to the Information Request. If the response indicates that It'll Be Pizza has performed a Process Hazard Review of the Refrigeration System, It'll Be Pizza's involvement in this initiative will conclude.

If It'll Be Pizza's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, It'll Be Pizza has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending It'll Be Pizza an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require It'll Be Pizza to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require It'll Be Pizza to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

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5 Lincon Ave
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1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
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Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

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continued >>

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Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

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www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills -

<http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

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www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

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EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 17, 2020

Michael Satzow, President
North County Smokehouse
19 Syd Clarke Drive
Claremont, NH 03743

Re: Information Request Pursuant to the Clean Air Act

Dear Michael Satzow:

In January of 2020, the U.S. Environmental Protection Agency (“EPA”) provided you notice of its plans to begin an enforcement initiative to increase companies’ compliance with the “General Duty Clause” of Section 112(r)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(r)(1), in certain states. See “Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems” (attached). This notice was widely shared with companies that operate ammonia refrigeration facilities, ammonia suppliers, ammonia contractors, and trade associations. This letter is part of the described initiative.

Please review this letter carefully. It contains an “Information Request” that requires you to submit certain information to EPA within **thirty (30) days** of your receipt of this letter.

INFORMATION REQUEST

EPA issues this Information Request under the authority of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), which authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and to carry out the purposes of the CAA. It requests certain information about the refrigeration system at North County Smokehouse’s facility at 19 Syd Clarke Drive in Claremont, NH (“Facility”) in order to investigate your compliance with the General Duty Clause.

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Clean Air Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to:

1. Identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques;
2. Design and maintain a safe facility taking such steps as are necessary to prevent releases; and
3. Minimize the consequences of accidental releases that do occur.

Guidance documents that further explain the General Duty Clause may be found at <https://www.epa.gov/enforcement/guidance-implementation-general-duty-clause-clean-air-act-cao-section-112r1-may-2000> and <https://www.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>. Also, the International Institute of Ammonia Refrigeration ("IIAR") has issued industry standards and guidance that can help facilities comply with the General Duty Clause. *See, e.g.*, The Ammonia Refrigeration Management ("ARM") Program, available through www.iiar.org.

Information obtained by EPA, including chemical inventory ("Tier II") reports⁷ submitted by North County Smokehouse, indicates that the refrigeration system uses anhydrous ammonia. Anhydrous ammonia is an extremely hazardous substance subject to the General Duty Clause.

While companies have an obligation to comply with all three duties of the General Duty Clause, this Information Request only focuses on North County Smokehouse's compliance with the first duty: the duty to identify hazards which may result from accidental releases of anhydrous ammonia from the refrigeration system. EPA sometimes calls these hazard assessments "process hazard reviews." A process hazard review that complies with the General Duty Clause will identify and evaluate the potential hazards associated with your refrigeration system. It will assess the design and operational safeguards in place to prevent ammonia releases as well as what might happen if the safeguards fail, the effect of facility siting on the hazards, and the risks and consequences of human error. A process hazard review is not the same as an equipment maintenance checklist. IIAR has a template for conducting process hazard reviews using a combined What If/Checklist methodology, although other industry-recognized hazard assessment techniques are also acceptable under the General Duty Clause.

You are required to submit the information requested in the "Information Request" and "Declaration" portions of the enclosed Attachment 1 by filling in all the blanks with the appropriate information. Fill out the form by hand, then return the completed form to the address listed at the top of Attachment 1.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, **within thirty (30) days of receipt of this letter** can result in an enforcement action, including for penalties, by EPA pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This Information Request is not subject to Office of Management and Budget review under the Paperwork Reduction Act.

⁷ Tier II reports are submitted pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, as certain categories of information are not properly the subject of such a claim. If no such claim accompanies the information submitted, the information may be made available to the public by EPA without further notice to you.

FOLLOW-UP TO INFORMATION REQUEST

EPA will review North County Smokehouse's response to the Information Request. If the response indicates that North County Smokehouse has performed a Process Hazard Review of the Refrigeration System, North County Smokehouse's involvement in this initiative will conclude.

If North County Smokehouse's response reveals a violation of the first duty of the General Duty Clause (*i.e.*, North County Smokehouse has **not** performed an analysis of the hazards of the refrigeration system), and the Facility has not experienced a significant release of ammonia in the last five years (*i.e.*, you answer "no" in response to question 4), EPA will follow-up by sending North County Smokehouse an offer to resolve this violation quickly and at a steep discount via an Expedited Settlement Agreement ("ESA"). The ESA will require North County Smokehouse to retain a third-party expert to perform a Process Hazard Review of the refrigeration system using appropriate hazard assessment techniques. The ESA will also require North County Smokehouse to meet with the local emergency responders to plan for an emergency response in the event of an ammonia release and to certify that it has filed a Tier II form with local and state emergency responders pursuant to Section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, and 40 C.F.R. Part 370.

If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell of my staff at (617) 918-1371 or odonnell.maryjane@epa.gov.

Sincerely,



James Chow, Deputy Director
Enforcement and Compliance Assurance Division

Enclosures

1. Information Request with Declaration
2. Public Notice of Enforcement Initiative
3. Small Business Information Sheet

cc: Christine Foot, Esq., EPA

ATTACHMENT 1

INFORMATION REQUEST

Instructions: Complete this form and the Declaration and mail or e-mail to:

Mary Jane O'Donnell, Chief
Waste and Chemical Compliance Section
Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (Mail Code 05-4)
Boston, Massachusetts 02109-3912
odonnell.maryjane@epa.gov

Guidance on How to Respond. Please respond fully to each of the questions, using the spaces provided. As part of your response, please complete the enclosed Declaration (see below). Your submission must be a self-explanatory, complete response that is dated and signed by an authorized facility official.

Continuing Obligation to Provide/Correct Information. If additional information responsive to these questions becomes known or available after answering this request, including, but not limited to, specific information that may be deemed *unknown* at the time of your response, EPA hereby requests, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), that you supplement your response to EPA within ten (10) days of discovering such information. Please be advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is incomplete or misrepresents the truth, notify Mary Jane O'Donnell of this fact as soon as possible and provide EPA with a corrected response.

Questions. If you have any questions with regard to this Information Request, please contact Mary Jane O'Donnell at (617) 918-1371 or odonnell.maryjane@epa.gov.

QUESTIONS/INFORMATION REQUESTED

North County Smokehouse
19 Syd Clarke Drive
Claremont, NH 03743

1. Does the Facility have any refrigeration systems that use anhydrous ammonia?
Yes ___ No ___ How many? _____
2. What is the inventory of anhydrous ammonia contained within each ammonia refrigeration system referenced in your answer to Question 1 above? (list individually)

Refrigeration System	Inventory of Anhydrous Ammonia (pounds)

3. Has a Process Hazard Review been performed on each ammonia refrigeration system referenced in your answer to Questions 1 and 2 above? Yes ___ No ___

If yes, specify the type of review, the year of the review, and who conducted it.

Refrigeration System	Type of Process Hazard Review (Specify industry checklist, What-If Analysis, HAZOP Analysis, or other)	Date of Process Hazard Review	Who Conducted Hazard Review (Specify outside team, your company, or other)

4. Has the Facility experienced an ammonia release in the last five years that resulted in deaths, injuries, significant property or environmental damage, evacuations, or sheltering in place? Yes ___ No ___

If yes, please include a brief description of the ammonia release, including the date, cause, amount released, and consequences of the release. _____

DECLARATION

I declare under penalty of perjury that I am the

_____ of _____,
Title Company

that I am authorized to respond on behalf of

_____, and that the foregoing is a complete, true,
Company

and correct response.

Executed on _____
Date

Signature

Name and Title

Email address

Telephone Number

Compliance Assurance and Enforcement Focus: Improving Safety at Facilities in New England with Smaller Ammonia Refrigeration Systems

Ammonia: An Efficient Refrigerant That Must Be Safely Managed

While anhydrous ammonia has many environmental and operational benefits, it is also an extremely hazardous substance that, if accidentally released, presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Ammonia is also flammable at certain concentrations in air.



EPA inspection photo reveals dangerous ice buildup on ammonia piping and valves.

How Safe Is Your Refrigeration System?

Accidental releases of ammonia from refrigeration facilities have injured or killed people. See <https://www.epa.gov/sites/production/files/2015-02/documents/112enforcementalert.pdf>

Some of the most dangerous facilities that EPA inspected were not aware of the hazards that their refrigeration systems posed to the public, emergency responders, and employees.

Does Your Facility Use Ammonia Refrigeration?

The Environmental Protection Agency (EPA) would like to work with facilities that have ammonia refrigeration systems to improve their safety, protect workers and the public from exposure to toxic gas, and avoid product losses.

Notice of Compliance Assurance and Enforcement Initiative

EPA is providing advance notice of an upcoming enforcement initiative so that you can take steps now to avoid a penalty before the initiative begins.

The Initiative will focus on ammonia refrigeration facilities using fewer than 10,000 pounds of anhydrous ammonia to enhance their compliance with the General Duty Clause of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. §(r)(1), and with Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11022. Failure to comply with these requirements puts the public at risk of exposure to anhydrous ammonia.

Compliance Help

Go to <https://www.epa.gov/enforcement/compliance-assistance-tools-and-resources-ammonia-refrigeration-sector> for a list of compliance resources, including guidance documents and links to refrigeration-related trade associations.

continued >>

How Can I Comply With The General Duty Clause (GDC)?

The goal of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), is to reduce the risk of chemical accidents. Owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances, including anhydrous ammonia, must:

1. identify hazards which may result from accidental releases using appropriate hazard assessment techniques;
2. design and maintain a safe facility taking steps to prevent releases; and
3. minimize the consequences of accidental releases that do occur.

For more information on the General Duty Clause: <https://www.epa.gov/sites/production/files/documents/gendutyclause-rpt.pdf>.

This initiative focuses on the first duty listed above. Conduct a comprehensive hazard review of your refrigeration system to comply with the duty to identify hazards. Appropriate hazard identification techniques include standard industry checklists and What-if analyses. See above link for more information. Trade associations may be able to help you find experienced consultants and hazard identification materials.

How will EPA's Initiative Work?

Information Request: EPA has begun preliminary investigations into compliance with the General Duty Clause by facilities that it believes has fewer than 10,000 pounds of ammonia. The primary focus of this Initiative is facilities with more than 1,000 pounds of ammonia. EPA will send brief, targeted Information Requests to selected facilities that it has reason to believe may be out of compliance. Facilities will be required to respond to EPA answering four questions about their ammonia refrigeration systems, including whether a process hazard review has been performed. If a facility has not performed the required hazard review, EPA will inform the facility that it has violated the first duty of the General Duty Clause.

Settlement: Unless a significant release has occurred at the facility, EPA will offer to resolve this violation for a discounted penalty, provided the company agrees to perform a hazard review of its system with the help of an expert. The company will also be required to meet with emergency responders and submit any missing Tier II forms.

Follow-up: EPA will inspect a small subset of facilities to determine if the Initiative has improved compliance with the General Duty Clause.

How Can I Comply With EPCRA?

Section 312 of EPCRA requires facilities to report the presence of certain chemicals, including anhydrous ammonia, to emergency planning and response agencies. The goal is to ensure that emergency responders and planners know what chemicals are on site should they need to respond to an incident and that people in the community can get information about chemicals in their neighborhood.

What Can I Do Now To Avoid a Penalty?

If you haven't already, conduct a process hazard review. Companies that respond to the Information Request indicating that a hazard review has already been performed will not need to take further action under this Initiative. To avoid EPCRA penalties, see if you qualify for penalty relief under EPA's Audit Policy. Go to https://www.epa.gov/compliance/epas-audit-policy#_bookmark3 for more information and to <https://www.epa.gov/compliance/epas-edisclosure> for EPA's web-based "e-Disclosure" portal.

EPCRA Inventory Forms (Tier II forms) are due annually by March 1.

For more information about EPCRA reporting, go to: <https://www.epa.gov/epcra>.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pncac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

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